

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

NICE SYSTEMS, INC., and	)	
NICE SYSTEMS, LTD.,	)	
	)	
Plaintiffs,	)	
v.	)	Civil Action No. 06-311-JJF
	)	
WITNESS SYSTEMS, INC.,	)	
	)	
Defendant.	)	

**PLAINTIFFS' PROPOSED VOIR DIRE PROCEDURE AND QUESTIONS**

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Dated: December 3, 2007

*The parties are exploring the use of a jury questionnaire. Plaintiffs do not object so long as use of the questionnaire does not adversely affect the timing or start of trial. If a questionnaire is used, Plaintiffs reserve the right to propose changes to defendant's proposed juror questionnaire and related changes to this proposed voir dire.*

Pursuant to D. Del. L.R. 47.1 (a), plaintiffs submit the following voir dire:

### **PROCEDURE**

1. Plaintiffs request that jurors be placed under oath for the purpose of responding to all voir dire questions. An oath administered before questioning may assist the jurors in appreciating the importance of thoughtful, complete and accurate responses to questions asked in voir dire.

2. Plaintiffs request that the Court ask the following of the jury after it is selected but before it is sworn:

Although I recognize that you have responded to many questions, your service as jurors is essential to the operation of our system of justice. Because your role is so important, I must ask you one more question. Listen carefully and take a few moments to reflect on your answer and those you have given under oath in the course of jury selection. In a few moments I will ask each of you to respond individually: Is there anything whatsoever that may interfere in any way with your ability to render a fair and impartial verdict in this case?

3. If any juror has not completed the jury questionnaire, Plaintiff requests that those jurors provide the basic information requested by the juror questionnaire.

### **QUESTIONS**

Good morning, ladies and gentlemen, I am Judge Farnan, and I will be presiding over the trial for which a jury is about to be drawn in the case captioned NICE v. Witness. Briefly stated, this case is an action for patent infringement.

The trial is expected to last 1 week. We will meet on weekdays, and our trial days will run approximately from 9:00 a.m. to 4:30 p.m.

I will now ask you certain questions, the purpose of which is to: (1) enable the court to determine whether or not any prospective juror should be excused for cause; and (2) enable counsel for the parties to exercise their individual judgment with respect to peremptory challenges, that is, challenges for which no reason need be given by counsel. It is essential that you listen carefully to each and every question and that you answer each question truthfully. If any of you answer any question "yes," please stand up and, upon being recognized by the court, state your juror number. When I have concluded asking all the questions, we will call you to bench individually to speak with you and the lawyers in private about your affirmative response or responses.

**ADMINISTER THE OATH TO THE PANEL**

1. You have been given a list of companies.
  - (a) Is any member of the panel personally acquainted with any officer, director, or employee of any of these companies?
  - (b) Do you or any member of your household now own, or have you or any such member ever owned, any stock or bonds in any of the companies?
  - (c) Have you, any family member, or anyone close to you had any dealings with, or relied financially in any way on, any of the companies?
  - (d) Is any family member or anyone close to you employed at any of the companies?
2. You have been given a list of the attorneys and law firms.
  - (a) Is any member of the panel related to, or personally acquainted with, any of these attorneys?
  - (b) Have you ever been represented by any of these attorneys or other associates or members of the listed law firms?
  - (c) Have you, any family member, or anyone else close to you had any dealings with the attorneys or members of the listed law firms?
  - (d) Is any family member or anyone close to you employed at any of these law firms.?
3. You have been given a list of the individuals who might appear as witnesses.
  - (a) Is any member of the panel related to, or personally acquainted with, any of these individuals?

(b) Have you read about this case or heard it discussed, or have an opinion regarding it?

4. Have you ever been a plaintiff, a defendant, a juror or a witness in a civil lawsuit?
5. Have you ever been a juror before?
6. Have you ever had any other experience with legal matters that might affect your role or attitude as a juror?
7. Has someone ever taken, copied or stolen any of your inventions or ideas?
8. Have you ever tried to stop someone from copying one of your inventions or ideas?
9. Do you believe that it is common business practice to use ideas belonging to another company without obtaining a license?
10. Do you feel that people should not go to court, even if a company was at fault?
11. Have you ever applied for a patent, or thought about doing so?
12. Do you have any strong opinions about the patent system?
13. Do you have any experience in obtaining or working with patents?
14. Do you have any specialized training or experience in computers or computer science?
15. Do you have any specialized training or experience in customer service or the supervision of customer service?
16. Would you have any problem rendering a large verdict if you believed that the law and the evidence warranted it?
17. Do you have any special disability or problem that would make it difficult or impossible for you to serve as a member of the jury in this case?

18. Do you know of any other matter which you believe should be called to the court's attention as having some bearing upon your qualifications or ability to sit as a juror, or which you think may prevent you from rendering a fair and impartial verdict based solely upon the evidence and my instructions as to the law?

**COMPANIES**

- (a) NICE Systems, Inc.
- (b) NICE Systems, Ltd.
- (c) Witness Systems, Inc.
- (d) Verint Systems, Inc.
- (e) Verint Americas, Inc.
- (f) Eyretel PLC
- (g) Avaya Inc.
- (h) Nortel Networks Corporation
- (i) Cisco Systems, Inc.
- (j) Adtech Global Solutions
- (k) Adtech-GESI, LLC
- (l) Dictaphone Inc.

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**Fish & Richardson**

William Marsden  
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Christopher O. Green  
Noah Graubart

**WITNESSES**

**Expert Witnesses**

John Henits  
Thomas W. Britven

**Non-Expert Witnesses**

Ilan Yosef  
David Glowny  
Daniel Daly  
Constantine Messologitis  
Salvatore Morlando  
Phil Min Ni  
John Edmond Richter  
Robert Swick  
Timothy Shadburn  
Christopher Blair  
John Bourne  
Marc Calahan  
Phillip Dawes  
William Evans  
Timothy Hannah  
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Jan Carel Warfield  
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*/s/ Melanie K. Sharp*

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